# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	Cause No. 1:19-cv-03603
\$48,400.00 UNITED STATES CURRENCY,	)	
Defendant.	)	

### **COMPLAINT OF FORFEITURE IN REM**

The United States of America, by counsel, Josh J. Minkler, United States Attorney for the Southern District of Indiana, and Jeffrey D. Preston, Assistant United States Attorney, alleges on information and belief as follows:

## **NATURE OF THE ACTION**

1. This is a civil action seeking forfeiture of certain property pursuant to 21 U.S.C. § 881(a)(6) because the defendant property constitutes proceeds of, or is property used to facilitate a violation of, the Controlled Substances Act.

## **JURISDICTION AND VENUE**

- 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1345 (district courts have original jurisdiction of all civil actions commenced by the United States) and § 1355 (district courts have original jurisdiction of any action for forfeiture).
- 3. This Court has in rem jurisdiction over the defendant property pursuant to 28 U.S.C. § 1355(b) (forfeiture action can be brought in the district in which any of the acts giving rise to the forfeiture occurred), and Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (clerk must issue a warrant to arrest property in the

government's possession).

4. This Court is the appropriate venue in this matter pursuant to 28 U.S.C. § 1395(a) and (b), in that the forfeiture accrued in the Southern District of Indiana, and the defendant is now, and during the pendency of this action will be, found within the Southern District of Indiana.

#### **DEFENDANT CURRENCY**

5. The Defendant is Forty-Eight Thousand and Four Hundred Dollars and No Cents ("\$48,400.00") in United States Currency ("the Defendant Currency"). The Defendant Currency was taken into custody of the United States Department of Homeland Security, Customs and Border Protection ("DHS-CBP"). The Defendant Currency has been assigned Asset Identification Number 17-CBP-000240.

#### **FACTS**

- 6. On March 1, 2017, officers from a parcel / bulk cash smuggling interdiction task force, comprised of the Indiana State Police ("ISP"), the Indianapolis Metropolitan Police Department ("IMPD"), and the Department of Homeland Security, Homeland Security Investigations ("DHS-HSI"), conducted an interdiction operation at a local Federal Express shipping facility in Indianapolis.
- 7. Parcel / bulk cash smuggling interdiction operations are conducted because it has become common practice for smugglers to use shipping companies, such as Federal Express, to transport illegal controlled substances and their proceeds. Shipping companies provide illegal controlled substances smugglers with many benefits such as faster delivery with predictable dates, package tracking, and delivery confirmation. Based on information and experience, task force officers can easily identify suspicious packages with indicators such as newly-bought boxes from the shipping company, overnight shipping with unknown payment methods, and heavy external

tap at the boxes' seams. Packages involved in bulk cash smuggling are typically sent to known source states for illegal controlled substances (e.g. California, Texas, and Arizona). Smugglers often use means to preserve their anonymity, such as using neutral location like a shipping store as the sender or receiver's address. Additionally, packages draw suspicion if they are send from an individual to an individual and from a non-business sender to a non-business receiver.

- 8. On March 1, 2017, during the routine parcel / bulk cash smuggling interdiction, task force officers isolated a suspicious package bearing tracking number 785756053840. The package was being sent from Philip Oxendine, care of Parkwood Pack & Ship, 12325 Academy Road, Philadelphia, Pennsylvania, 19154 to Sean Lopez, 742 South Ferris Avenue, Los Angeles California, 90022.
- 9. Task force officers selected the package for isolation because its appearance met the indicators of a package involved in bulk cash and controlled substance smuggling. Officers noticed that the package was a newly-bought box from the shipping company that had heavy external tape at its seams. Upon further inspection, officer saw that it was being sent via standard overnight shipping without an identifying payment method to a known source state for illegal controlled substances. The fact that the package was being shipped in the care of a shipping store, rather than a business or residential address, drew increased suspicion. Further, the package was being sent from an individual to an individual and from a non-business sender to a non-business receiver.





- 10. That same day, an IMPD officer and his canine partner examined the exterior of the isolated package for the odor of illegal controlled substances. The canine has been trained and certified in the detection, by odor, of marijuana, cocaine, crack cocaine, heroin, and methamphetamine. A blind search was conducted, where the suspicious package was placed among two similarly sized and shaped, non-suspicious packages. After this, the canine was brought in to inspect all three packages. After sniffing each package, the canine gave a positive alert for the suspicious package, while ignoring the non-suspicious packages.
- 11. The IMPD officer then applied for a search warrant to inspect the interior of the package based on the suspicious appearance of the package and the canine's positive alert. On March 1, 2017, a Marion County Superior Court Judge for the State of Indiana granted the search warrant upon a determination of probable cause.

12. After receiving the search warrant, task force officers opened the package. Officers found a bubble-wrapped clear storage container with a lid that had been secured with heavy packaging tape. The inside of the storage container, there were several children's books and wads of magazine pages concealing two double layered heat and vacuum sealed plastic bags. These bags were stuffed with car air-fresheners and rubber-banded stacks of U.S. currency. Smugglers regularly use extensive packaging methods to conceal the presence of currency in packages. Additionally, materials such as heat and vacuum sealed bags, packaging tape, and air-fresheners are often used to mask to odor of illegal controlled substances. As is typical of bulk cash smuggling, there was no document or correspondence indicating the purpose of the currency.



- 13. The IMPD officer and his canine partner conducted a second blind search of the package after the package had been opened. Having been allowed to sniff the currency directly, the canine again gave a positive alert for the presence of the odor of illegal controlled substances on the suspicious package, while ignoring the non-suspicious packages.
- 14. The Defendant Currency was seized, converted into cashier's check, and retained in the custody of ISP District 52 pending the issuance of a state turnover order. On June 27, 2017, a Marion Superior Court Judge for the State of Indiana issued a turnover order under cause number 49D05-1703-MI-009628. The Defendant Currency and related property was then released into the custody of DHS-CBP.
- 15. Administrative forfeiture was not initiated because notice could not be given to potential claimants within 90 days of the date of the seizure due to delay in a state turnover order allowing for the transfer of the Defendant Currency to DHS-HSI and DHS-CBP.
- 16. Law enforcement and internet database searches revealed problems with the information provided on the shipping label. The sender does not appear to be directly associated to Parkwood Pack & Ship business that mailed the "care of" package and the recipient is not associated with the address on the shipping label. Though the phone numbers on the label appear to be valid, neither seem to be associated with the sender or recipient's name.
- 17. Based on information and belief, Philip Oxendine is also known as Phillip R. Oxendine. Phillip R. Oxendine's address, as of October 2015, is listed as 2831 Woodbridge Road, Philadelphia, Pennsylvania, 19114. This address is 3.5 miles away from Parkwood Pack & Ship, the shipping store where the suspicious package was sent. Database searches have shown that no other Philip Oxendine or Phillip R. Oxendine lives within 50 miles of Philadelphia, Pennsylvania.

- 18. Based on information and belief, Philip Oxendine has a criminal history that includes a conviction in the state of Pennsylvania for Possession of a Controlled Substance and Possession of Drug Paraphernalia on September 26, 2002, in *Commonwealth of Pennsylvania v. Phillip R. Oxendine*, Cause No. CP-14-CR-0001519-2002, Centre County Court of Common Pleas.
- 19. It is against Federal Express policy, as stated on its website, to ship cash via Federal Express. *See* FedEx Freight FXF 100 Series Rules Tariff, *available at* https://www.fedex.com/en-us/service-guide/terms/other-services.html.

#### PERTINENT STATUTES

- 20. Under 21 U.S.C. § 841(a)(1)-(2), it is a federal crime for any person to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute or dispense a controlled substance.
- 21. Under 21 U.S.C. § 881(a)(6), all moneys furnished or intended to be furnished by any person in exchange for a controlled substance, and all proceeds traceable to such an exchange, and all moneys used or intended to be used to facilitate any violation of the Controlled Substances Act, including 21 U.S.C. § 841(a)(1), shall be subject to forfeiture to the United States, and no property right shall exist in them.

## **CLAIM FOR RELIEF**

22. Based on the factual allegations set forth above, the Defendant funds are "moneys . . . furnished or intended to be furnished by any person in exchange for a controlled substance," and/or "proceeds traceable to such an exchange," and/or "moneys . . . used or intended to be used to facilitate any violation of [the Controlled Substances Act, 21 U.S.C. §801 *et seq.*]," and are therefore subject to forfeiture to the United States of America pursuant to Title 21, United States Code, Section 881(a)(6).

WHEREFORE, the United States of America prays that the Clerk of the Court issue a warrant for the arrest of the defendant funds pursuant to Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions; that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendant property be forfeited to the United States for disposition according to law; and the United States be granted any relief this Court may deem just and proper.

Respectfully submitted,

JOSH J. MINKLER United States Attorney

By: <u>s/Jeffrey D. Preston</u>
Jeffrey D. Preston
Assistant United States Attorney
Office of the United States Attorney
10 W. Market St., Suite 2100
Indianapolis, Indiana 46204-3048
Telephone: (317) 226-6333

# **VERIFICATION**

I, Jason Rodriguez, hereby verify and declare under penalty of perjury that I am a Special Agent for Homeland Security Investigations ("HSI"), that I have read the foregoing Verified Complaint in Rem and know the contents thereof, and that the matters contained in the Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief, and as to those matters I believe to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement offices, as well as my investigation of this case, together with others, as a Special Agent with HSI.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Dated: 8 21 19

Jason Rodriguez

# $_{\text{JS 44}}\text{ (Rev. 12/L2)} \text{case 1:19-cv-03603-JPH-DML} \\ \textbf{CPVLL CV-L2} \text{ Filed 08/26/19} \quad \text{Page 1 of 2 PageID \#: 10}$

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

purpose of initiating the civil di	ocket sheet. (SEE INSTRUC	TIONS ON NEXT FAGE O	r misro	KW.)						
I. (a) PLAINTIFFS				DEFENDANTS						
(b) County of Residence of First Listed Plaintiff  (EXCEPT IN U.S. PLAINTIFF CASES)  (c) Attorneys (Firm Name, Address, and Telephone Number)				County of Residence of First Listed Defendant  (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  Attorneys (If Known)						
II. BASIS OF JURISDI	ICTION (Place an "X" in C	One Box Only)		  TIZENSHIP OF P	RINCIPA	L PARTIES	Place an "X" in C	One Box f	or Plaintij	
☐ 1 U.S. Government Plaintiff	☐ 3 Federal Question (U.S. Government	Not a Party)		(For Diversity Cases Only) PT en of This State		Incorporated or Pri of Business In T		r Defende PTF □ 4	ant) <b>DEF</b> □ 4	
☐ 2 U.S. Government Defendant	☐ 4 Diversity (Indicate Citizensh	nip of Parties in Item III)	Citiz	en of Another State	2 🗖 2	Incorporated and P of Business In A		<b>5</b>	□ 5	
				en or Subject of a reign Country	3 🗖 3	Foreign Nation		□ 6	□ 6	
IV. NATURE OF SUIT			LE	DEELTHDE/DENAL TV	DAN	INDIIDTON	OTHER	TATIT	TC	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment	Marine Miller Act Negotiable Instrument Recovery of Overpayment Medicare Act Recovery of Defaulted Student Loans (Excludes Veterans)  310 Airplane 315 Airplane Product Liability 315 Airplane Product Liability 316 Airplane Product Liability 317 Airplane Product Liability 318 Airplane Product Liability 319 Airplane 310 Airplane 31		1 GS	25 Drug Related Seizure of Property 21 USC 881 00 Other  LABOR 10 Fair Labor Standards	375 False Claims			aims Act apportion t nd Bankin ce ion er Influen Organiza er Credit tt TV	Act rtionment anking luenced and nizations edit	
of Veteran's Benefits  160 Stockholders' Suits  190 Other Contract  195 Contract Product Liability  196 Franchise	□ 350 Motor Vehicle □ 355 Motor Vehicle □ Product Liability □ 360 Other Personal Injury □ 362 Personal Injury - Medical Malpractice CIVIL RIGHTS	□ 370 Other Fraud □ 371 Truth in Lending □ 380 Other Personal Property Damage □ 385 Property Damage Product Liability  PRISONER PETITIO	□ 72 □ 74 □ 75 □ 79	Act 20 Labor/Management Relations 40 Railway Labor Act 51 Family and Medical Leave Act 00 Other Labor Litigation 01 Employee Retirement	□ 862 Black Lung (923) □ 863 DIWC/DIWW (405(g)) □ 864 SSID Title XVI □ 865 RSI (405(g)) □ 895 Envir □ 896 Arbit □ 870 Taxes (U.S. Plaintiff or Defendant) □ 871 IRS—Third Party □ 869 Rote Act/R Agen □ 950 Cons		Exchange  890 Other Statutory Actions  891 Agricultural Acts  893 Environmental Matters  895 Freedom of Information			
210 Land Condemnation     220 Foreclosure     230 Rent Lease & Ejectment     240 Torts to Land     245 Tort Product Liability     290 All Other Real Property	□ 440 Other Civil Rights □ 441 Voting □ 442 Employment □ 443 Housing/ Accommodations □ 445 Amer. w/Disabilities -	Habeas Corpus:  463 Alien Detainee  510 Motions to Vacata Sentence  530 General  535 Death Penalty		Income Security Act  IMMIGRATION				eview or Appeal of by Decision itutionality of		
	Employment  446 Amer. w/Disabilities - Other  448 Education	Other:  540 Mandamus & Oth  550 Civil Rights  555 Prison Condition  600 Civil Detainee -  Conditions of  Confinement		52 Naturalization Application 55 Other Immigration Actions						
	moved from	Remanded from Appellate Court	□ 4 Rein Reo <sub>l</sub>		r District	☐ 6 Multidistr Litigation	ict			
VI. CAUSE OF ACTION			re filing (1	Do not cite jurisdictional state	utes unless div	versity):				
VII. REQUESTED IN COMPLAINT:	☐ CHECK IF THIS UNDER RULE 2	S IS A <b>CLASS ACTION</b> 23, F.R.Cv.P.	N D	EMAND \$		HECK YES only URY DEMAND:		complai		
VIII. RELATED CASI IF ANY	E(S) (See instructions):	JUDGE			DOCKE	T NUMBER				
DATE		SIGNATURE OF AT	TORNEY (	OF RECORD						
FOR OFFICE USE ONLY										
RECEIPT # AM	MOUNT	APPLYING IFP		JUDGE		MAG. JUI	OGE			

#### INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- **I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- **II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

  United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included nere. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.)** 

- **III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- **IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- **V. Origin.** Place an "X" in one of the six boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date. Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

- VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. Do not cite jurisdictional statutes unless diversity. Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

  Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

  Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- **VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF INDIANA INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,	)				
Plaintiff,	) ) )				
v. \$48,400.00 UNITED STATES CURRENCY, Defendant.	Cause No. 1:19-cv-03603 ) ) )				
WARRANT FOR ARREST OF PROPERTY					
TO: ANY OFFICER OR EMPLOYEE OF THE UNITED STATES					
WHEREAS a Complaint for Forfeiture In Rem has been filed in this Court on the 26th					
day of August, 2019, by Josh J. Minkler, United States Attorney for the Southern District of					
Indiana, against forty-eight thousand and four hundred dollars in United States Currency					
("\$48,400.00"), defendant herein, for reasons and causes set forth in the Complaint;					
YOU ARE HEREBY COMMANDED to take custody of and to deliver the defendant					
currency into the possession of the United States of America, to be detained in the possession of					
the United States or its designee until further order of this Court, and you will make return					
thereon not later than ten (10) days after execution of process.					
Dated:					

Laura A. Briggs, Clerk United States District Court Southern District of Indiana Arrest Warrant to be issued by the Clerk pursuant to Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, for property in custody of the United States.